

[First Reprint]

ASSEMBLY, No. 2606

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JUNE 15, 2000

Sponsored by:

Assemblywoman CAROL J. MURPHY

District 26 (Essex, Morris and Passaic)

Assemblyman FRANCIS J. BLEE

District 2 (Atlantic)

Co-Sponsored by:

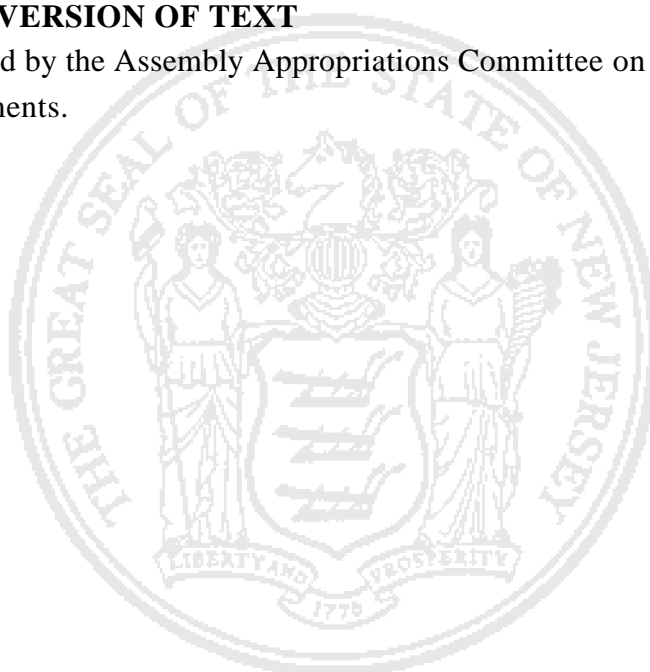
Assemblyman Thompson, Senators Singer, Inverso and Allen

SYNOPSIS

Permits certain disabled persons to purchase Medicaid coverage through federal "Ticket to Work and Work Incentives Improvement Act of 1999."

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on June 22, 2000, with amendments.



(Sponsorship Updated As Of: 6/30/2000)

1 AN ACT concerning eligibility to purchase Medicaid coverage and
2 amending P.L.1968, c.413.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 3 of P.L.1968, c.413 (C.30:4D-3) is amended to read as
8 follows:

9 3. Definitions. As used in this act, and unless the context
10 otherwise requires:

11 a. "Applicant" means any person who has made application for
12 purposes of becoming a "qualified applicant."

13 b. "Commissioner" means the Commissioner of Human Services.

14 c. "Department" means the Department of Human Services, which
15 is herein designated as the single State agency to administer the
16 provisions of this act.

17 d. "Director" means the Director of the Division of Medical
18 Assistance and Health Services.

19 e. "Division" means the Division of Medical Assistance and Health
20 Services.

21 f. "Medicaid" means the New Jersey Medical Assistance and Health
22 Services Program.

23 g. "Medical assistance" means payments on behalf of recipients to
24 providers for medical care and services authorized under this act.

25 h. "Provider" means any person, public or private institution,
26 agency or business concern approved by the division lawfully
27 providing medical care, services, goods and supplies authorized under
28 this act, holding, where applicable, a current valid license to provide
29 such services or to dispense such goods or supplies.

30 i. "Qualified applicant" means a person who is a resident of this
31 State, and either a citizen of the United States or an eligible alien, and
32 is determined to need medical care and services as provided under this
33 act, and who:

34 (1) Is a dependent child or parent or caretaker relative of a
35 dependent child and a recipient of benefits under the Work First New
36 Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et
37 seq.) who would be, except for resources, eligible for the aid to
38 families with dependent children program under the State Plan for
39 Title IV-A of the federal Social Security Act as of July 16, 1996;

40 (2) Is a recipient of Supplemental Security Income for the Aged,
41 Blind and Disabled under Title XVI of the Social Security Act;

42 (3) Is an "ineligible spouse" of a recipient of Supplemental Security

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted June 22, 2000.

1 Income for the Aged, Blind and Disabled under Title XVI of the Social
2 Security Act, as defined by the federal Social Security Administration;

3 (4) Would be eligible to receive Supplemental Security Income
4 under Title XVI of the federal Social Security Act or, using the
5 resource standards of the Work First New Jersey program, would be
6 eligible for the aid to families with dependent children program under
7 the State Plan for Title IV-A of the federal Social Security Act as of
8 July 16, 1996, except for failure to meet an eligibility condition or
9 requirement imposed under such State program which is prohibited
10 under Title XIX of the federal Social Security Act such as a durational
11 residency requirement, relative responsibility, consent to imposition of
12 a lien;

13 (5) Is a child between 18 and 21 years of age who, using the
14 resource standards of the Work First New Jersey program, would be
15 eligible for the aid to families with dependent children program under
16 the State Plan for Title IV-A of the federal Social Security Act as of
17 July 16, 1996, living in the family group except for lack of school
18 attendance or pursuit of formalized vocational or technical training;

19 (6) Is an individual under 21 years of age who, using the resource
20 standards of the Work First New Jersey program, would be, except for
21 dependent child requirements, eligible for the aid to families with
22 dependent children program under the State Plan for Title IV-A of the
23 federal Social Security Act as of July 16, 1996, or groups of such
24 individuals, including but not limited to, children in foster placement
25 under supervision of the Division of Youth and Family Services whose
26 maintenance is being paid in whole or in part from public funds,
27 children placed in a foster home or institution by a private adoption
28 agency in New Jersey or children in intermediate care facilities,
29 including developmental centers for the developmentally disabled, or
30 in psychiatric hospitals;

31 (7) Using the resource standards of the Work First New Jersey
32 program, would be eligible for the aid to families with dependent
33 children program under the State Plan for Title IV-A of the federal
34 Social Security Act in effect as of July 16, 1996 or the Supplemental
35 Security Income program, but is not receiving such assistance and
36 applies for medical assistance only;

37 (8) Is determined to be medically needy and meets all the eligibility
38 requirements described below:

39 (a) The following individuals are eligible for services, if they are
40 determined to be medically needy:

41 (i) Pregnant women;

42 (ii) Dependent children under the age of 21;

43 (iii) Individuals who are 65 years of age and older; and

44 (iv) Individuals who are blind or disabled pursuant to either
45 42 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.

46 (b) The following income standard shall be used to determine

1 medically needy eligibility:

2 (i) For one person and two person households, the income standard
3 shall be the maximum allowable under federal law, but shall not exceed
4 133 1/3% of the State's payment level to two person households under
5 the aid to families with dependent children program under the State
6 Plan for Title IV-A of the federal Social Security Act in effect as of
7 July 16, 1996; and

8 (ii) For households of three or more persons, the income standard
9 shall be set at 133 1/3% of the State's payment level to similar size
10 households under the aid to families with dependent children program
11 under the State Plan for Title IV-A of the federal Social Security Act
12 in effect as of July 16, 1996.

13 (c) The following resource standard shall be used to determine
14 medically needy eligibility:

15 (i) For one person households, the resource standard shall be 200%
16 of the resource standard for recipients of Supplemental Security
17 Income pursuant to 42 U.S.C.s.1382(1)(B);

18 (ii) For two person households, the resource standard shall be
19 200% of the resource standard for recipients of Supplemental Security
20 Income pursuant to 42 U.S.C.s.1382(2)(B);

21 (iii) For households of three or more persons, the resource
22 standard in subparagraph (c)(ii) above shall be increased by \$100.00
23 for each additional person; and

24 (iv) The resource standards established in (i), (ii), and (iii) are
25 subject to federal approval and the resource standard may be lower if
26 required by the federal Department of Health and Human Services.

27 (d) Individuals whose income exceeds those established in
28 subparagraph (b) of paragraph (8) of this subsection may become
29 medically needy by incurring medical expenses as defined in
30 42 C.F.R.435.831(c) which will reduce their income to the applicable
31 medically needy income established in subparagraph (b) of paragraph
32 (8) of this subsection.

33 (e) A six-month period shall be used to determine whether an
34 individual is medically needy.

35 (f) Eligibility determinations for the medically needy program shall
36 be administered as follows:

37 (i) County welfare agencies and other entities designated by the
38 commissioner are responsible for determining and certifying the
39 eligibility of pregnant women and dependent children. The division
40 shall reimburse county welfare agencies for 100% of the reasonable
41 costs of administration which are not reimbursed by the federal
42 government for the first 12 months of this program's operation.
43 Thereafter, 75% of the administrative costs incurred by county welfare
44 agencies which are not reimbursed by the federal government shall be
45 reimbursed by the division;

46 (ii) The division is responsible for certifying the eligibility of

1 individuals who are 65 years of age and older and individuals who are
2 blind or disabled. The division may enter into contracts with county
3 welfare agencies to determine certain aspects of eligibility. In such
4 instances the division shall provide county welfare agencies with all
5 information the division may have available on the individual.

6 The division shall notify all eligible recipients of the Pharmaceutical
7 Assistance to the Aged and Disabled program, P.L.1975, c.194
8 (C.30:4D-20 et seq.) on an annual basis of the medically needy
9 program and the program's general requirements. The division shall
10 take all reasonable administrative actions to ensure that
11 Pharmaceutical Assistance to the Aged and Disabled recipients, who
12 notify the division that they may be eligible for the program, have their
13 applications processed expeditiously, at times and locations convenient
14 to the recipients; and

15 (iii) The division is responsible for certifying incurred medical
16 expenses for all eligible persons who attempt to qualify for the
17 program pursuant to subparagraph (d) of paragraph (8) of this
18 subsection;

19 (9) (a) Is a child who is at least one year of age and under 19 years
20 of age; and

21 (b) Is a member of a family whose income does not exceed 133%
22 of the poverty level and who meets the federal Medicaid eligibility
23 requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.
24 s.1396a);

25 (10) Is a pregnant woman who is determined by a provider to be
26 presumptively eligible for medical assistance based on criteria
27 established by the commissioner, pursuant to section 9407 of
28 Pub.L.99-509 (42 U.S.C. s.1396a(a));

29 (11) Is an individual 65 years of age and older, or an individual
30 who is blind or disabled pursuant to section 301 of Pub.L.92-603 (42
31 U.S.C. s.1382c), whose income does not exceed 100% of the poverty
32 level, adjusted for family size, and whose resources do not exceed
33 100% of the resource standard used to determine medically needy
34 eligibility pursuant to paragraph (8) of this subsection;

35 (12) Is a qualified disabled and working individual pursuant to
36 section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d) whose income
37 does not exceed 200% of the poverty level and whose resources do
38 not exceed 200% of the resource standard used to determine eligibility
39 under the Supplemental Security Income Program, P.L.1973, c.256
40 (C.44:7-85 et seq.);

41 (13) Is a pregnant woman or is a child who is under one year of
42 age and is a member of a family whose income does not exceed 185%
43 of the poverty level and who meets the federal Medicaid eligibility
44 requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.
45 s.1396a), except that a pregnant woman who is determined to be a
46 qualified applicant shall, notwithstanding any change in the income of

1 the family of which she is a member, continue to be deemed a qualified
2 applicant until the end of the 60-day period beginning on the last day
3 of her pregnancy; [or]

4 (14) (Deleted by amendment, P.L.1997, c.272)[.];

5 (15) (a) Is a specified low-income Medicare beneficiary pursuant
6 to 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning January 1,
7 1993 do not exceed 200% of the resource standard used to determine
8 eligibility under the Supplemental Security Income program, P.L.1973,
9 c.256 (C.44:7-85 et seq.) and whose income beginning January 1,
10 1993 does not exceed 110% of the poverty level, and beginning
11 January 1, 1995 does not exceed 120% of the poverty level.

12 (b) An individual who has, within 36 months, or within 60 months
13 in the case of funds transferred into a trust, of applying to be a
14 qualified applicant for Medicaid services in a nursing facility or a
15 medical institution, or for home or community-based services under
16 section 1915(c) of the federal Social Security Act (42 U.S.C.
17 s.1396n(c)), disposed of resources or income for less than fair market
18 value shall be ineligible for assistance for nursing facility services, an
19 equivalent level of services in a medical institution, or home or
20 community-based services under section 1915(c) of the federal Social
21 Security Act (42 U.S.C. s.1396n(c)). The period of the ineligibility
22 shall be the number of months resulting from dividing the
23 uncompensated value of the transferred resources or income by the
24 average monthly private payment rate for nursing facility services in
25 the State as determined annually by the commissioner. In the case of
26 multiple resource or income transfers, the resulting penalty periods
27 shall be imposed sequentially. Application of this requirement shall be
28 governed by 42 U.S.C. s.1396p(c). In accordance with federal law,
29 this provision is effective for all transfers of resources or income made
30 on or after August 11, 1993. Notwithstanding the provisions of this
31 subsection to the contrary, the State eligibility requirements
32 concerning resource or income transfers shall not be more restrictive
33 than those enacted pursuant to 42 U.S.C. s.1396p(c).

34 (c) An individual seeking nursing facility services or home or
35 community-based services and who has a community spouse shall be
36 required to expend those resources which are not protected for the
37 needs of the community spouse in accordance with section 1924(c) of
38 the federal Social Security Act (42 U.S.C. s.1396r-5(c)) on the costs
39 of long-term care, burial arrangements, and any other expense deemed
40 appropriate and authorized by the commissioner. An individual shall
41 be ineligible for Medicaid services in a nursing facility or for home or
42 community-based services under section 1915(c) of the federal Social
43 Security Act (42 U.S.C. s.1396n(c)) if the individual expends funds in
44 violation of this subparagraph. The period of ineligibility shall be the
45 number of months resulting from dividing the uncompensated value of
46 transferred resources and income by the average monthly private

1 payment rate for nursing facility services in the State as determined by
2 the commissioner. The period of ineligibility shall begin with the
3 month that the individual would otherwise be eligible for Medicaid
4 coverage for nursing facility services or home or community-based
5 services.

6 This subparagraph shall be operative only if all necessary approvals
7 are received from the federal government including, but not limited to,
8 approval of necessary State plan amendments and approval of any
9 waivers; or

10 (16) Is a person between the ages of 16 and 65 who is permanently
11 disabled and working, and:

12 (a) whose income is at or below 250% of the poverty level, plus
13 other established disregards; ¹[and]¹

14 (b) who pays the premium contribution and other cost sharing as
15 established by the commissioner, subject to the limits and conditions
16 of federal law ¹; and

17 (c) whose assets, resources and unearned income do not exceed
18 limitations as established by the commissioner¹.

19 j. "Recipient" means any qualified applicant receiving benefits
20 under this act.

21 k. "Resident" means a person who is living in the State voluntarily
22 with the intention of making his home here and not for a temporary
23 purpose. Temporary absences from the State, with subsequent returns
24 to the State or intent to return when the purposes of the absences have
25 been accomplished, do not interrupt continuity of residence.

26 l. "State Medicaid Commission" means the Governor, the
27 Commissioner of Human Services, the President of the Senate and the
28 Speaker of the General Assembly, hereby constituted a commission to
29 approve and direct the means and method for the payment of claims
30 pursuant to this act.

31 m. "Third party" means any person, institution, corporation,
32 insurance company, group health plan as defined in section 607(1) of
33 the federal "Employee Retirement and Income Security Act of 1974,"
34 29 U.S.C. s.1167(1), service benefit plan, health maintenance
35 organization, or other prepaid health plan, or public, private or
36 governmental entity who is or may be liable in contract, tort, or
37 otherwise by law or equity to pay all or part of the medical cost of
38 injury, disease or disability of an applicant for or recipient of medical
39 assistance payable under this act.

40 n. "Governmental peer grouping system" means a separate class of
41 skilled nursing and intermediate care facilities administered by the
42 State or county governments, established for the purpose of screening
43 their reported costs and setting reimbursement rates under the
44 Medicaid program that are reasonable and adequate to meet the costs
45 that must be incurred by efficiently and economically operated State
46 or county skilled nursing and intermediate care facilities.

1 o. "Comprehensive maternity or pediatric care provider" means any
2 person or public or private health care facility that is a provider and
3 that is approved by the commissioner to provide comprehensive
4 maternity care or comprehensive pediatric care as defined in
5 subsection b. (18) and (19) of section 6 of P.L.1968, c.413
6 (C.30:4D-6).

7 p. "Poverty level" means the official poverty level based on family
8 size established and adjusted under Section 673(2) of Subtitle B, the
9 "Community Services Block Grant Act," of Pub.L.97-35 (42 U.S.C.
10 s.9902(2)).

11 q. "Eligible alien" means one of the following:

12 (1) an alien present in the United States prior to August 22, 1996,
13 who is:

14 (a) a lawful permanent resident;

15 (b) a refugee pursuant to section 207 of the federal "Immigration
16 and Nationality Act" (8 U.S.C. s.1157);

17 (c) an asylee pursuant to section 208 of the federal "Immigration
18 and Nationality Act" (8 U.S.C. s.1158);

19 (d) an alien who has had deportation withheld pursuant to section
20 243(h) of the federal "Immigration and Nationality Act" (8 U.S.C.
21 s.1253 (h));

22 (e) an alien who has been granted parole for less than one year by
23 the federal Immigration and Naturalization Service pursuant to section
24 212(d)(5) of the federal "Immigration and Nationality Act" (8 U.S.C.
25 s.1182(d)(5));

26 (f) an alien granted conditional entry pursuant to section 203(a)(7)
27 of the federal "Immigration and Nationality Act" (8 U.S.C.
28 s.1153(a)(7)) in effect prior to April 1, 1980; or

29 (g) an alien who is honorably discharged from or on active duty in
30 the United States armed forces and the alien's spouse and unmarried
31 dependent child.

32 (2) An alien who entered the United States on or after August 22,
33 1996, who is:

34 (a) an alien as described in paragraph (1)(b), (c), (d) or (g) of this
35 subsection; or

36 (b) an alien as described in paragraph (1)(a), (e) or (f) of this
37 subsection who entered the United States at least five years ago.

38 (3) A legal alien who is a victim of domestic violence in
39 accordance with criteria specified for eligibility for public benefits as
40 provided in Title V of the federal "Illegal Immigration Reform and
41 Immigrant Responsibility Act of 1996" (8 U.S.C. s.1641).

42 (cf: P.L.1997, c.352, s.1)

43

44 2. (New section) The Commissioner of Human Services shall
45 adopt rules and regulations pursuant to the "Administrative Procedure
46 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes

1 of this act; except that, notwithstanding any provision of P.L.1968,
2 c.410 to the contrary, the commissioner may adopt, immediately upon
3 filing with the Office of Administrative Law, such regulations as the
4 commissioner deems necessary to implement the provisions of this act,
5 which shall be effective for a period not to exceed six months and may
6 thereafter be amended, adopted or readopted by the commissioner in
7 accordance with the requirements of P.L.1968, c.410.

8

9 3. This act shall take effect on the 30th day following enactment.